

PROTOCOL

defining, for the period 21 May 1992 to 20 May 1995, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Democratic Republic of Madagascar on fishing off Madagascar

Article 1

Pursuant to Article 2 of the Agreement, licences authorizing simultaneous fishing in Madagascar's fishing zone shall be granted to 42 freezer tuna seiners and eight surface longliners for a period of three years beginning on 21 May 1992.

Article 2

The amount of the contribution referred to in Article 7 of the Agreement shall be fixed at a flat rate of at least ECU 1 350 000 for the duration of the Protocol, payable in three equal annual instalments. This amount is to cover the fishing activities referred to in Article 1 up to a total annual catch of 9 000 tonnes of tuna in Madagascar's fishing zone; if the tuna caught by Community vessels in Madagascar's fishing zone exceeds this weight, the amount referred to above shall be proportionately increased; however, irrespective of the amount actually caught, financial compensation shall not exceed ECU 750 000 per year.

Article 3

The Community shall also, during the period referred to in Article 1, contribute ECU 375 000 to finance a Malagasy scientific programme to improve knowledge of the highly migratory species existing in the Indian Ocean around Madagascar.

At the request of the Government of Madagascar, this contribution may take the form of assistance with the

costs of international meetings to improve knowledge of those species and the management of fishery resources.

Article 4

The Contracting Parties hereby agree that increasing the skills and knowledge of those concerned with sea fishing is essential to the success of their cooperation. The Community shall therefore facilitate the entry of Malagasy nationals to educational establishments in its Member States, and for this purpose shall make available to them study or practical training awards lasting a maximum of five years in the various scientific, technical and economic fields linked to fishing. The total cost of these grants may not exceed ECU 450 000, equivalent to approximately 450 grant months. The grants may also be used in any other country linked to the Community by a cooperation agreement.

Article 5

The Annex to the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off Madagascar is hereby repealed and replaced by the Annex to this Protocol.

Article 6

This Protocol shall enter into force on the date of its signature.

It shall apply from 21 May 1992.

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY COMMUNITY VESSELS IN
MADAGASCAR'S FISHING ZONE

1. Formalities concerning applications for, and issue of, licences

After payment of the fees by shipowners, the competent Community authorities shall present to the competent Malagasy authorities an application form in respect of each vessel wishing to fish under the Agreement. The application must be made on the form provided by Madagascar for this purpose, according to the model shown in Appendix I.

The Malagasy authorities shall then send the licence provided for in Article 4 of the Agreement to the Delegation of the Commission of the European Communities in Antananarivo within 15 working days.

Owners of tuna vessels shall be obliged to be represented by an agent in Madagascar.

2. Validity of licences

The licences shall be valid for one year. They shall be renewable. Each licence shall be issued for a specific vessel and shall not be transferable. However, in the event of *force majeure*, a licence for one vessel may be replaced by a licence for another vessel of similar characteristics should the Community so request. The owner of the vessel being replaced shall return the cancelled licence to the Malagasy Ministry with responsibility for fisheries via the Delegation of the Commission of the European Communities.

The new licence shall indicate:

- the date of issue,
- the fact that it cancels and replaces the licence of the previous vessel.

3. Payment for licences

The fee provided for by Article 5 of the Agreement shall be set at ECU 20 per tonne of tuna caught in Madagascar's fishing zone.

Licences shall be issued on advance payment to the Malagasy Treasury of a fixed annual sum of ECU 1 000 per tuna seiner and ECU 500 per surface longliner.

4. Declaration of catches and breakdown of fees due by shipowners

The captain shall complete a fishing form corresponding to the model given in Appendix 2 for each period spent fishing in Madagascar's fishing zone. The form may be replaced during the period of application of the Protocol by another document devised for the same purpose by an international organization responsible for tuna fishing in the Indian Ocean after the agreement of the Joint Committee referred to in Article 9 of the Fisheries Agreement.

The form, which must be legible and signed by the captain of the ship, shall be sent without delay to l'Office de la recherche scientifique et technique d'outre-mer (Office of Overseas Scientific and Technical Research) or El Instituto Oceanográfico Español (Spanish Oceanographical Institute) for processing. After they have been processed by the scientific institutes, the European Community shall send the forms every three months to the Malagasy Ministry with responsibility for fisheries or at the latest three months after the end of each fishing year.

In the event of failure to comply with these provisions, the Malagasy authorities reserve the right to suspend the licence of the offending vessel until the formalities have been completed.

Member States shall inform the Commission of the European Communities before 15 April of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall establish a breakdown of the fees due in respect of a fishing year which it shall then send to the Malagasy authorities for their comments.

Shipowners shall be notified by the Commission of the European Communities of this breakdown by the end of April at the latest and shall have 30 days in which to meet their financial obligations. The shipowner cannot recover the balance in cases where the amount payable in respect of actual fishing operations is less than the advance payment.

5. Radio communications

The captain shall notify the coastal radio station at Antsiranana or send a telex at least 24 hours in advance of his intention of bringing his vessel into Madagascar's fishing zone.

The radio frequency to be used and the telex number will be indicated on the licence.

6. Observers

At the request of the Malagasy authorities, tuna vessels shall take an observer on board. The time spent on board by the observer shall be fixed by the Malagasy authorities, but, as a general rule, an observer must not be present for longer than the time required to carry out his duties.

The shipowner shall, via his agent, make a payment of ECU 10 to the Malagasy Government for each day spent by an observer aboard a tuna boat.

Should a tuna boat with a Malagasy observer on board leave Madagascar's fishing zone, every step shall be taken to ensure that the observer returns to Madagascar as soon as possible, at the shipowner's expense.

7. Employment of seamen

For the tuna seiner fleet, two Malagasy seamen shall be signed on permanently for the duration of the fishing season.

Should Madagascar not put forward any candidates, this commitment shall be replaced by a flat-rate sum equivalent to 50 % of the seamen's wages, in proportion to the duration of the season; this sum will be used for the training of Malagasy fishermen.

8. Fishing zones

Community vessels shall have access to all waters under Madagascar's jurisdiction outside the two-mile zone.

Should the Malagasy authorities decide to install experimental fish concentration devices (FCDs), they shall inform the Commission of the European Communities and the agents of the shipowners concerned, indicating the geographical position of the devices.

From the 30th day after such notification, it shall be forbidden to approach within 1,5 nautical miles of the devices. The dismantling of any device must be immediately notified to the same parties.

9. Use of port facilities

The authorities of Madagascar and the beneficiaries of the Agreement shall lay down the conditions for using port facilities.

10. Inspection and monitoring of fishing activities

Vessels holding a licence shall permit and assist any Malagasy official responsible for the inspection and monitoring of fishing activities to board the ship and carry out his duties.

11. Transshipment

When fish are transhipped, freezer tuna seiners shall hand over the fish which they do not intend to keep to a company or organization nominated by the Malagasy authorities in charge of fisheries.

*Appendix 1***APPLICATION FORM FOR A FISHING LICENCE**

1. Period of validity: from to
2. Name and flag of vessel:
3. Name of shipowner:
4. Port of registration and registration number:
5. Type of fishing:
6. Authorized mesh size:
7. Length of vessel:
8. Breadth of vessel:
9. Gross registered tonnage:
10. Hold capacity:
11. Power of engine:
12. Type of construction:
13. Number of crew normally carried:
14. Radio equipment:
15. Radio call sign:
16. Name of captain:

The shipowner, or his representative, is entirely responsible for the accuracy of this information.

☐ Longline

☐ Beltboat

☐ Purse seine

☐ Trolling

☐ Others _____

Landing weight (in kg)

1. Use one sheet per month, and one line per day.
2. At the end of each trip, forward a copy of the log to your correspondent or to IOCAT, General Mola 17, Madrid 1, Spain.
3. 'Day' refers to the day you set the line.
4. Fishing area refers to the noon position of the boat. Round off minutes, and record degrees of latitude and longitude. Be sure to record N/S and E/W.
5. The bottom line ('landing weight') should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded.
6. All information reported herein will be kept strictly confidential.